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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the matter of: Del Monte Corporation (Oahu Plantation) Superfund Site, Oahu, Hawaii RESPONDENT DEL MONTE FRESH PRODUCE (HAWAII), INC. Proceeding Under Sections 104, 106, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9604, 9606, and 9622), as amended by the Superfund Amendments and Reauthorization Act of 1986.	U.S. EPA Docket No. 95-21

ADMINISTRATIVE CONSENT ORDER

FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY

DEL MONTE SUPERFUND SITE

I. AUTHORITY

A. This Administrative Order on Consent ("Consent Order") is entered into pursuant to the authority vested in the President of the United States by Sections 104, 106 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act of 1986) ("CERCLA"), 42 U.S.C. §§ 104, 106, and 122. The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, 52 Fed. Reg. 2923, and this authority was further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegations Nos. 14-8-A and 14-14-C. This authority has been re-delegated to the Director, Hazardous Waste Management Division, EPA, Region 9.

B. The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. In any action by EPA to enforce the terms of this Consent Order, Respondent consents to and agrees not to contest the authority or jurisdiction of EPA to enter into and enforce this Consent Order.

II. STATEMENT OF PURPOSE

A. In entering into this Consent Order, the objectives of EPA and Respondent are:

1. To conduct the Remedial Investigation/Feasibility Study or EE/CA Work ("collectively, RI/FS Work"), including a) to estimate the nature and extent of contamination and any threat to the public health, welfare or the environment caused by the

release or threatened release of hazardous substances, pollutants or contaminants at or from the Del Monte Corporation (Oahu Plantation) Superfund Site ("Site"), by conducting a remedial investigation; (b) to determine and evaluate alternatives for a remedial action (if any) to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a feasibility study or EE/CA; and (c) to recover oversight costs not inconsistent with the National Contingency Plan ("NCP") incurred by EPA with respect to this Consent Order. The RI/FS Work will include the work described in the RI/FS Statement of Work ("SOW"), a copy of which is attached as Attachment A and by this reference made a part of this Consent Order. The SOW specifies work to be performed during the RI/FS, including a list of reports, documents, plans and specifications and other deliverables that Respondents will provide to EPA for review, comment and/or approval, disapproval or modification as described in Section IX.

2. To accomplish all actions required by the terms and conditions of this Consent Order in accordance with the provisions of CERCLA and the National Contingency Plan ("NCP"), 40 C.F.R. Part 300 et seq., as amended.

3. To accomplish the above purposes promptly, cost-effectively and without litigation.

4. Nothing in this Consent Order should be construed as an admission of liability or an admission of EPA's findings, conclusions or determinations contained in this Consent Order.

III. PARTIES BOUND

A. This Consent Order shall apply to and be binding upon EPA and shall be binding upon the Respondent, its agents, successors, assigns, officers, directors and principals. Respondents are jointly and severally responsible for carrying out all actions required of them by this Consent Order. The signatories to this Consent Order certify that they are authorized to execute and legally bind the parties they represent to this Consent Order. No change in the ownership or corporate status of the Respondent or of the Site shall alter Respondent's responsibilities under this Consent Order without the written consent of EPA.

B. Prior to issuance of the written notice from EPA under Section XXVI of this Consent Order, the Respondent shall provide a copy of this Consent Order to any subsequent owners or successors before ownership rights or stock or assets in a corporate acquisition are transferred. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Consent Order, within 14 days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondent shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Consent Order and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, agents and attorneys comply with

this Consent Order.

IV. FINDINGS OF FACT

The following is a summary of the background of the Site as alleged by the United States:

A. The Site ("Site") is a 6,000 acre pineapple plantation located on the Leilehua Plateau within the central plain of the island of Oahu, Hawaii, bounded on the east by the Koolau Mountain Range and on the west by the Waianae Mountain Range.

B. The Site is currently operated by Del Monte Fresh Produce (Hawaii), Inc. ("DMFP").

C. From the early 1940's to 1978, the Site was owned and operated by Del Monte Corporation ("Del Monte"). EPA is informed of the following subsequent corporate history: In 1979, all of the stock of Del Monte was purchased by RJR Reynolds Industries, Inc. Thereafter, Del Monte was operated as a wholly-owned subsidiary of RJR Reynolds Industries, Inc. In 1985, R.J. Reynolds Industries, Inc. changed its name to RJR Nabisco, Inc., to reflect the acquisition of Nabisco Brands, Inc. In 1989, RJR Nabisco, Inc. became a subsidiary of RJR Holdings Corp., which is currently known as RJR Nabisco Holdings Corp ("RJR").

D. Dow Chemical Company ("DOW") is a principal supplier of soil fumigants to the Site. Dow reportedly was the owner of a facility, specifically a storage container and hose used to download bulk fumigant to on-site bulk storage, from which a release of soil fumigant occurred to soils at the Site in 1977.

E. The Kunia Camp Well is a former drinking water well located at the Site. From the mid-1940's through 1983, the soil

fumigant ethylene dibromide ("EDB") was the primary soil fumigant used at the Site. The soil fumigant DD was also used during this period, as well as small-scale or experimental quantities of other soil fumigants. Soil fumigants were previously stored by Del Monte in Kunia Camp, located approximately 100 to 150 feet north of the Kunia Camp Well. An unknown amount of spillage occurred during the preparation and transfer from bulk storage to supply trucks or handling of pesticide drums. In at least one instance, the fumigant methyl bromide was buried at the Site in deteriorating containers.

F. On April 7, 1977, a spill of approximately 495 gallons of EDB, which may have been mildly contaminated with .25 per cent 1,2 dibromo-3-chloropropane ("DBCP"), occurred on the bare ground near the Kunia Camp Well. The spill occurred from a storage container and hose reportedly owned by DOW, during the downloading of bulk fumigant to above-ground on-site bulk storage.

G. In 1979, the Pineapple Growers Association of Hawaii and the State of Hawaii Departments of Agriculture and Health conducted a joint groundwater sampling program, to assess the regional presence of EDB and DBCP in Hawaiian groundwater. Groundwater samples collected on April 14, 1980 from the Kunia Camp Well detected the presence of EDB at 92 parts per billion ("ppb") and DBCP at 11 ppb. Confirmation samples collected on April 24, 1980 confirmed the presence of EDB at 300 ppb and DBCP at 0.5 ppb. The Federal Maximum Contaminant Level ("MCL") for EDB is .05 ppb and for DBCP is .2 ppb. The State MCL for both

EDB and DBCP is .04 ppb. The Kunia Camp Well was disconnected from the potable water system on April 25, 1980.

H. In response to the contamination at the Kunia Camp Well, Del Monte initiated a soils and groundwater investigation and remediation program in 1980. EDB and DBCP have been detected in soils in the vicinity of the Kunia Camp Well at concentrations of up to 63,300 ppb EDB and 260 ppb DBCP. In sub-surface soils in and near the previous storage areas, EDB and DBCP have been detected at up to 118,000 ppb EDB and 318,000 ppb DBCP.

I. In July 1990, EPA conducted a Preliminary Site Investigation at the Site. On May 10, 1993, EPA proposed that the Site be listed on the National Priorities List ("NPL"), and on December 16, 1994, the Site was listed on the NPL.

J. As of the effective date of this Consent Order, EPA has sent general notice letters notifying DOW, RJR and Del Monte that EPA considers them to be potentially responsible parties ("PRPs") for actual or threatened releases of hazardous substances at the Site. EPA has also notified DMFP of its potential liability.

K. On or about April 28, 1995, EPA sent special notice letters notifying DMFP, DOW, Del Monte and RJR that they should commence negotiations with EPA for the performance of the RI/FS Work for the Site. DMFP submitted a good faith proposal to EPA on its own behalf and which it stated was on behalf of RJR and Del Monte for preparation of a Remedial Investigation /Feasibility Study. Pursuant to these negotiations, undertaken at arm's length, and in good faith and without any admissions of fact or liability, EPA and DMFP have agreed to this Consent

Order. Dow, Del Monte and RJR have notified EPA that they do not intend to sign this Consent Order.

V. CONCLUSIONS OF LAW

EPA has concluded that:

A. The Site is a "facility" as defined in Section 101 (9) of CERCLA, 42 U.S.C. § 9601 (9).

B. The storage container and connecting hose reportedly owned by DOW and used to deliver and transfer bulk fumigant to on-site storage at the point of delivery is a "facility" as defined in Section 101 (9) of CERCLA, 42 U.S.C. § 9601 (9).

C. Respondent is a "person" as defined in Section 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).

D. EDB and DBCP are "hazardous substances" as defined in Section 101 (14) of CERCLA, 42 U.S.C. § 9601 (14).

E. There have been actual or threatened releases of hazardous substances at the Site as defined in Section 101 (22) of CERCLA, 42 U.S.C. § 9601 (22).

F. Respondent is a responsible party pursuant to Section 107 (a) of CERCLA, 42 U.S.C. § 9607 (a). Dow, Del Monte and RJR are potentially responsible parties pursuant to Section 107(a) of CERCLA.

VI. DETERMINATIONS

A. EPA has determined that:

1. The actual or threatened releases of hazardous substances from the Site presents or may present an imminent and substantial endangerment to the public health or welfare or the

environment.

2. The actions required by this Consent Order are necessary to protect the public health, welfare and the environment, are in the public interest, 42 U.S.C. § 9622 (a), are consistent with CERCLA and the National Contingency Plan ("NCP"), 42 U.S.C. §§ 9604 (a)(1), 9622 (a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622 (a).

B. Respondent does not admit or deny EPA's Conclusions of Law or Determinations. Respondent, however, agrees not to contest these Determinations in any action or proceeding brought by EPA to enforce this Consent Order.

C. Except as otherwise explicitly provided in this Order, issuance of and entry into this Consent Order, and taking actions under this Order, shall not constitute (a) an admission, adjudication, or waiver of any right or defense of Respondent with respect to any present or future alleged liability for conditions at or near the Site except as to enforcement of the terms of this Consent Order; or (b) admission or adjudication of any Finding of Fact, Conclusion of Law or Determination stated in this Consent Order, or constitute evidence of any wrongdoing or misconduct or liability to any person on the part of Respondent.

VII. NOTICE TO STATE

A. EPA and the State of Hawaii entered into a Memorandum of Agreement regarding the Site on November 25, 1994. Under the MOA, EPA is lead on the Site and the Hawaii Department of Health ("DOH") supports EPA's efforts to coordinate, oversee and enforce

the response action at the Site. On March 17, 1995, EPA notified DOH that it intended to conduct negotiations with PRPs at the Site to conduct the RI/FS Work at the Site. DOH will participate during the implementation of response actions under this Consent Order, and will be consulted with on deliverables as set forth in the MOA.

B. By providing a copy of this Consent Order to the State, EPA is further notifying the State of Hawaii that EPA has entered into this Consent Order.

C. The State has concurred in this Consent Order as set forth in Attachment B.

VIII. DEFINITIONS

A. Unless otherwise expressly provided herein, terms used in this Consent Order which are defined in CERCLA or in regulations promulgated under CERCLA, shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Consent Order or in the documents attached to this Consent Order or incorporated by reference into this Consent Order, the following definitions shall apply:

1. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

2. "Day" shall mean a Working Day, unless expressly stated to be a calendar day; provided, however, that in computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or federal or State holiday,

the period shall run until the close of business of the next Working Day.

3. "DMFP" shall mean Del Monte Fresh Produce (Hawaii), Inc.

4. "Del Monte" shall mean the Del Monte Corporation.

5. "DOH" shall mean the Hawaii Department of Health and any successor departments or agencies of the State of Hawaii.

6. "DOW" shall mean the Dow Chemical Company.

7. "EE/CA" shall mean the Engineering Evaluation/Cost Analysis, which may be performed as part of the RI/FS Work.

8. "Environment" shall have the meaning set forth in CERCLA Section 101 (8), 42 U.S.C. § 9601 (8).

9. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

10. "Oversight Costs" shall mean all costs not inconsistent with NCP incurred by the United States in overseeing the RI/FS Work and assessing the adequacy of the performance pursuant to this Consent Order, including but not limited to the costs of reviewing or developing plans or reports.

11. "RJR" or "RJR Nabisco" shall mean RJR Nabisco Holdings Corp.

12. "RI/FS" shall mean the Remedial Investigation/Feasibility Study, performed pursuant to the RI/FS Statement of Work.

13. "RI/FS Work" shall mean the work performed pursuant to the Statement of Work, Attachment A to this Consent

Order, including any EE/CA work, deliverables developed pursuant to the Statement of Work, and work performed pursuant to such deliverables.

14. "RI/FS Work Plan" or "the Work Plan" shall mean the work plan(s) developed by Respondents pursuant to the Statement of Work, Attachment A to this Consent Order.

15. "Release" shall have the meaning set forth in CERCLA Section 101 (22), 42 U.S.C. § 9601 (22).

16. "Respondent" shall mean DMFP.

17. "Site" (when capitalized) shall mean the Del Monte Superfund Site and the areal extent of EDB, DBCP and/or other volatile organic compound or other hazardous substance contamination that is presently located in the soils and groundwater at the Site, including any areas to which such contamination migrates.

17. "State" shall mean the State of Hawaii.

18. "Statement of Work" or "SOW" shall mean Attachment A.

19. "United States" shall mean the United States of America.

20. "Working Day" shall mean a Day other than a Saturday, Sunday, or federal or State of Hawaii holiday.

IX. WORK TO BE PERFORMED

All response work performed pursuant to this Consent Order shall be under the direction and supervision of a qualified professional engineer or a certified geologist with expertise in hazardous waste site investigation. Within 30 days of the

Effective Date of this Consent Order, Respondent shall notify EPA in writing of the name, title, and qualifications of such engineer or geologist and of any contractors and/or subcontractors to be used in carrying out the terms of this Consent Order. The qualifications of the persons undertaking the work for Respondents shall be subject to EPA's review, for verification that such persons meet the minimum technical background and experience. If EPA disapproves, in writing, the technical qualifications of any such persons(s), Respondent shall notify EPA within 30 days of receipt of the written notice, of the identity and qualifications of the replacement(s). If EPA subsequently disapproves of the replacement(s), EPA reserves its right under CERCLA and the NCP to conduct a complete RI/FS, to terminate all or any part of this Order, and to seek reimbursement for costs from Respondents.

It is hereby AGREED TO AND ORDERED that the following work shall be performed by Respondents:

A. Respondent shall perform the tasks and submit reports contained in the SOW (Attachment A) and in the RI/FS Work Plan or other Work Plan developed pursuant to the RI/FS SOW. All such work shall be conducted in accordance with Attachment A, CERCLA, the NCP, and EPA guidance. EPA will assist Respondent to identify relevant EPA guidance upon request. EPA will prepare the Ecological Assessment and Risk Assessment("EA") portion of the FS pursuant to EPA Guidance.

B. Deliverables to be submitted by Respondent are listed in

the SOW. For each of the deliverables listed in the SOW, EPA will conduct "Review and Comment" of all draft reports and "Review and Approval" of all final reports. Each deliverable should include the items described in the SOW. All draft deliverables must contain sufficient information to allow for EPA's detailed technical review and comment. Failure to submit sufficient information will be deemed a failure to submit that draft deliverable. Open discussions between Respondent and EPA will be necessary to assure that deliverables contain sufficient detail.

C. Any reports, plans, specifications, schedules, and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, and attachments shall be considered a violation of this Consent Order and will subject Respondents to stipulated penalties in accordance with Section XV of this Consent Order. For the purposes of this Consent Order, "day" means Working Day unless otherwise specified in this Consent Order.

D. This work shall be consistent with all applicable requirements of CERCLA and the NCP and shall be conducted in accordance with EPA RI/FS guidances ("Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," EPA/540/G-89/004, October 1988, and "Guidance on Conducting Non-Time Critical Removal Actions Under CERCLA," EPA 540/R/93-057, August 1993), and any updates or revisions to those guidances, and with the standards, specifications, and schedule(s) contained

in the approved RI/FS Work Plan. The RI/FS Work Plan is not subject to Dispute Resolution (Section XIV) procedures.

E. EPA shall, except as noted above, review, comment upon, and approve or disapprove each report, document or other deliverable. Within the time period scheduled for review of Respondent's submittals, EPA shall notify Respondent in writing of EPA's approval, disapproval or if additional review time is required. In the event of any disapproval, EPA shall specify the reasons for such disapproval and recommended modifications.

1. Within 45 days, or more if needed, of receipt of Respondent's submittals pursuant to the SOW, EPA shall submit to Respondent its comments on such submittals. Respondent shall submit its final deliverable incorporating EPA's comments within 20 days of receiving EPA's comments unless otherwise specified in the schedule included with the SOW.

2. Respondent may begin Dispute Resolution (Section XIV) procedures, if appropriate, after it receives EPA's approval or disapproval of the amended deliverable.

3. Respondent's deadlines will be extended for an amount equal to any extra time needed by EPA beyond the time specified above to review and comment on the above deliverables.

F. In the event of unanticipated or changed circumstances at the Site, Respondent shall notify the EPA Project Coordinator by telephone within 24 hours of the discovery of the unanticipated or changed circumstances.

G. EPA may determine that additional tasks, including, but not limited to, remedial investigatory work, engineering evalua-

tion, or tasks added in response to public comment are necessary as part of the RI/FS Work. Respondent agrees to implement any additional tasks which EPA determines are necessary as part of the RI/FS Work. The additional work shall be completed in accordance with the standards, specifications, requirements, and schedules determined or approved by EPA.

H. All documents, including progress and technical reports, approvals, disapprovals, and other correspondence to be submitted pursuant to this Consent Order, shall be sent to the following addressees or to such other addressees as the parties hereafter may designate in writing, and shall be deemed submitted on the date received by EPA or Respondent.

1. Documents to be submitted to EPA shall be sent to:

Pam Opalski
Remedial Project Manager (H-7-1)
Hazardous Waste Management Division
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2404

Copies shall be sent to:

Susanne Kraemer
Project Manager
ICF Kaiser Engineers, Inc.
11290 Point East Drive, Suite 200
Rancho Cordova, CA 95742

and

Bryce Hataoka
Hawaii Department of Health
919 Ala Moana Boulevard
Room 206
Honolulu, HI 96814

2. Documents to be submitted to Respondent shall be sent to:

Calvin Oda
Del Monte Fresh Produce (Hawaii), Inc.
P.O. Box 200
Kunia, Hawaii 96759
(808) 621-1206

X. DESIGNATED PROJECT COORDINATORS

A. On or before the effective date of this Consent Order, EPA shall designate a Project Coordinator who shall have the authorities, duties, and responsibilities vested in the Remedial Project Manager by the National Contingency Plan. Respondent shall also designate a Project Coordinator who shall be responsible for overseeing the implementation of this Consent Order. The EPA Project Coordinator will be EPA's designated representative at the Site. To the maximum extent possible, all oral communications between Respondents and EPA concerning the activities performed pursuant to this Order shall be directed through the Project Coordinators. All documents, including progress and technical reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be delivered in accordance with section IX, paragraph (F) above.

B. EPA and Respondent may change their respective Project Coordinators. Such a change shall be accomplished by notifying the other party in writing at least one week prior to the change.

C. Consistent with the provisions of this Consent Order, the EPA Project Coordinator shall also have the authority vested

in the On-Scene-Coordinator ("OSC") by the NCP, unless EPA designates a separate individual as OSC, who shall then have such authority. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Consent Order and/or undertake any response action (or portions of the response action) when conditions present or may present a threat to public health or welfare or the environment as set forth in the NCP.

D. The absence of the EPA Project Coordinator or OSC from the Site shall not be cause for the stoppage of work.

XI. SITE ACCESS

A. To the extent that Respondent requires access to land other than land it owns or leases, Respondent will use its best efforts to obtain access agreements from the present owners or lessees within 60 days of the effective date of this Consent Order. Such agreements shall provide reasonable access for EPA, its contractors and oversight officials, the state and its contractors, and Respondent or its authorized representatives. In the event that Respondent is not able to obtain site access to property owned or controlled by persons or entities other than Respondent, Respondent shall notify EPA promptly regarding both the lack of, and efforts to obtain, such access.

B. Prior to issuance of the written notice under Section XXVI of this Consent Order, no conveyance of title, easement, or other interest in the property comprising the Site shall be consummated without a provision permitting the continuous implementation of the provisions of this Consent Order.

C. Respondent shall permit EPA, or its authorized representatives, to have reasonable access at all times to the Site to monitor any activity conducted pursuant to the SOW or the RI/FS Work Plan or conduct such tests or investigations as EPA deems necessary. Nothing in this Consent Order shall be deemed a limit upon EPA's authority under federal law to gain access to the Site.

XII. SAMPLING, ACCESS, AND DATA/DOCUMENT AVAILABILITY

A. Respondent shall provide EPA with all information regarding hazardous substance contamination at, or released from, the Site which has not previously been provided to EPA's Superfund program, including:

- The results and Quality Assurance/Quality Control (QA/QC) documentation of all sampling and/or tests or other technical data generated by Respondents or on Respondents' behalf with regard to soil, groundwater, surface water, or air contamination by hazardous substances, pollutants, or contamination at the Site. Details and documentation of all sampling and analysis data collection completed during the previous month shall be presented in a monthly status report;

- Previous studies or reports in the possession of Respondent;

- Communications between Respondent and local, state or other federal authorities;

- Permits from local, state or federal authorities regarding hazardous substance use or contamination at the Site.

B. At the request of EPA, Respondent shall provide split or

duplicate samples to EPA and/or its authorized representatives of any samples collected by Respondent as part of the RI/FS Work Plan. Respondent shall notify EPA of any planned sample collection activity in the preceding monthly report. Except where EPA is conducting an audit or inspection, EPA shall notify Respondent of any planned sample collection activity by EPA or its contractors. EPA shall provide Respondent with a copy of all data generated by EPA or its contractors during any sample collection activity, including data generated during an audit or inspection.

C. Respondent shall use quality assurance, quality control, and chain of custody procedures described in the "EPA NEIC Policies and Procedures Manual," May 1978, revised August 1991, EPA-330/9-78-001-R and "EPA requirements for Quality Assurance Project Plans for Environmental Data Operations," July 1994, EPA QA/R-5, and any EPA updates or revisions to these guidances, while conducting all sample collection and analysis activities required by the Consent Order. Respondent shall consult with EPA in planning for and prior to, all sampling and analysis as detailed in the RI/FS Work Plan. To provide quality assurance and maintain quality control, Respondent shall:

1. Use a laboratory which has a documented Quality Assurance Program that complies with EPA guidance document EPA QA/R-5.

2. Ensure that EPA personnel and/or EPA authorized representatives are allowed access to the laboratory and personnel utilized by Respondent for analysis.

3. Ensure that the laboratory used by Respondent for analysis performs according to a method or methods deemed satisfactory to EPA and submits all protocols to be used for analysis to EPA at least 20 days before beginning analysis.

D. Respondent shall permit EPA, and its authorized representative to have reasonable access at all times to the Site to monitor any activity conducted pursuant to the RI/FS SOW or Work Plan or conduct such tests or investigations as EPA deems necessary.

E. Respondent shall permit EPA and/or its authorized representative to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, that in any way concern soil, groundwater, surface water or air contamination at the Site. Nothing in this Consent Order shall be interpreted as limiting EPA's inspection authority under federal law.

F. Respondent may assert a confidentiality claim, covering part or all of the information requested by this Consent Order pursuant to 40 C.F.R. § 2.203(b). Analytical data and data covered by Section 104 (e)(7)(F) of CERCLA (42 U.S.C. § 9604 (e)(7)(F)) shall not be claimed as confidential by Respondents and shall be provided to EPA by Respondent. Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondent.

G. If, at any time during the RI/FS process, Respondent

becomes aware of the need for additional data beyond the scope of the RI/FS Work Plan, Respondent shall have an affirmative obligation to submit to the EPA Project Coordinator within 20 days a memorandum documenting the need for additional data.

H. All data, factual information, and documents submitted by Respondents to EPA pursuant to this Consent Order shall be subject to public inspection.

XIII. RECORD PRESERVATION

Respondent agrees that it shall preserve, during the pendency of this Consent Order and for a minimum of six (6) years after the final Record of Decision for the Site has been signed, a central depository of the records and documents required to be prepared under the RI/FS Work Plan. Respondent shall acquire and retain copies of all documents that relate to hazardous waste contamination at the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this six year period, Respondent shall notify EPA at least 30 days before the documents are scheduled to be destroyed. If EPA requests that the documents should be saved, Respondents shall, at no cost to EPA, provide EPA with the documents or copies of the documents, or a privilege log of documents which are subject to the attorney/client or attorney work product privilege under federal law.

XIV. DISPUTE RESOLUTION

If Respondent objects to any EPA decision pursuant to Section IX (Work to be Performed), Respondent shall notify EPA in writing of its objections within fourteen (14) calendar days of receipt

of the decision. EPA and Respondent will then have an additional fourteen (14) calendar days from receipt by EPA of the notification of objection to reach agreement. At the end of the fourteen (14) day discussion period, EPA shall provide a written statement of its decision from the Branch Chief for the Hazardous Waste Management Division, Region 9, to that Respondent. That Respondent shall then implement EPA's decision as long as that decision is consistent with the NCP. Use of this dispute resolution provision will not relieve Respondent's duty to complete other tasks in a timely manner in accordance with the applicable schedule. This dispute resolution provision or EPA's decision pursuant to this provision does not grant or imply jurisdiction to any court to review EPA's decisions pursuant to this Consent Order. Nothing in this section affects any rights Respondent may have under Section 113 of CERCLA, 42 U.S.C. section 9613.

XV. STIPULATED PENALTIES

A. Except with respect to any extensions allowed by EPA in writing, or excused by the provisions of Section XVI (Force Majeure), for each day in which Respondent fails to submit a report or document, or in which Respondent otherwise fails to achieve the requirements of this Order, Respondents agrees to pay the sum set forth below as stipulated penalties. These penalties shall accrue commencing upon the earliest of the following occurrences: Respondent's receipt of the written determination of disapproval, as specified in Section IX; the failure of Respondents to meet the schedule specified or modified by EPA in

the RI/FS SOW or Work Plan; or Respondent's receipt of written notice from EPA that a violation of this Consent Order has occurred. These penalties are not subject to Dispute Resolution (Section XIV). Dispute Resolution shall not stay the accrual of these stipulated penalties.

B. Stipulated penalties shall accrue in accordance with the following schedule:

1. Failure to Submit Monthly Progress Report, Weekly Field Report, Technical Direction Memoranda required by Subtasks 1.c.1, 1.d.1, 2.b.1 and 3.a.5, and the Summary of Assembled Alternatives required by Subtask 5.a.5: $ 1000 per day.

2. Failure to Submit the Deliverables Listed in Exhibit A to the SOW, or other reports or memoranda required by EPA pursuant to the tasks performed under this Consent Order, except Monthly Progress Reports and Weekly Field Reports covered by this Section XV, Paragraph B.1:

Days 1 - 5	$ 1,000 per day
Days 6 - 30	$ 1,250 per day
After 30 days	$ 1,500 per day

3. Any failure to comply in a timely or adequate manner with the terms of this Consent Order that is not specifically listed as a violation elsewhere under this Section, and specifically including any failure to comply with the substantive standards of any applicable or relevant and appropriate requirement ("ARAR") identified in any work plan implemented under this Consent Order.

Days 1 - 5	$ 1,500 per day
Days 6 - 30	$ 2,000 per day
After Day 30	$ 5,000 per day

C. Respondent's payment of stipulated penalties shall be due upon demand by the Branch Chief, Hazardous Waste Management Division, U.S. EPA, Region 9, by certified check made payable to the United States Treasury and addressed to:

U.S. Environmental Protection Agency
Region 9, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Respondent shall send a cover letter with any check and the letter shall identify the Site by name and SSID # 09AG and make reference to this Consent Order. Respondent shall send simultaneously to the EPA Project Coordinator a notification of any penalty paid, including a photocopy of the check.

D. The stipulated penalties provisions do not preclude EPA from pursuing any other remedies or sanctions which are available to EPA because of Respondent's failure to comply with this Consent Order; provided however that the stipulated penalties established in this Consent Order shall be the exclusive mechanism for assessment and collection of penalties for Respondent's failure to comply with this Consent Order unless EPA elects, in lieu of stipulated penalties, to pursue other penalties. Nothing in this paragraph shall preclude EPA from seeking injunctive relief in conjunction with stipulated penalties or other penalties. EPA will notify Respondent of its

determination to pursue other remedies or sanctions.

XVI. FORCE MAJEURE

A. If an event occurs which causes delay in the achievement of the requirements of this Consent Order, Respondent shall have the burden of proving that the delay was caused by circumstances entirely beyond the control of Respondent, its contractors, and agents and that cannot be overcome by their due diligence. Economic hardship, normal inclement weather, and increased costs of performance shall not be considered events beyond the control of Respondents, its contractors, and agents and shall not trigger the force majeure clause. In the event of a force majeure, the time for performance of the activity delayed by the force majeure shall be extended for the time period of the delay attributable to the force majeure. The time for performance of any activity dependent on the delayed activity shall be similarly extended, except to the extent that the dependent activity can be implemented in a shorter time. EPA shall determine whether subsequent requirements are to be delayed and the time period granted for any delay. Respondent shall adopt all reasonable measures to avoid or minimize any delay caused by a force majeure.

B. When an event occurs or has occurred that may delay or prevent the performance of any obligation under this Consent Order, which Respondent believes is due to force majeure, Respondent shall notify by telephone the EPA Project Coordinator, or, in his/her absence, the Section Chief of the EPA Project

Coordinator, within 24 hours of the commencement of such event. Oral notification shall be followed by written notification, made within seven business days of when Respondents knew or should have known of the event causing the delay or anticipated delay. The written notification shall fully describe: the reasons for the delay; the reasons the delay is entirely beyond the control of Respondent, its contractors, and agents; the anticipated duration of the delay; actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to mitigate the effect of the delay; and any aspects of the event which may cause or contribute to an endangerment to public health, welfare, or the environment.

C. Failure of Respondent to comply with the force majeure notice requirements will be deemed an automatic forfeiture of its right to request a delay unless such failure is excused by EPA.

D. If EPA and Respondent cannot agree that any delay in compliance with the requirements of this Consent Order has been or will be caused by the circumstances entirely beyond the control of Respondent, their contractors, and agents, or on the duration of any delay necessitated by a force majeure event, the dispute shall be resolved according to the dispute resolution provisions in Section XIV. Respondent shall have the burden of proving by clear and convincing evidence: that the delay was caused by circumstances entirely beyond the control of Respondent, its contractors, and agents; that reasonable measures were taken to avoid or minimize delay; and the necessity of the duration of the delay.

E. Should Respondent carry the burden set forth in subparagraph D above, the delay at issue shall be deemed not to be a violation of this Consent Order.

XVII. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Consent Order, including the completion of an EPA-approved Remedial Investigation and Feasibility Study, Respondent is not released from liability, if any, for any actions beyond the terms of this Consent Order taken by EPA respecting the Site. Except as provided in Section XV.D (Stipulated Penalties), EPA reserves the right to take any enforcement action pursuant to CERCLA and/or any other legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Consent Order. EPA expressly reserves all rights and defenses that it may have, including EPA's right both to disapprove of work performed by Respondent and to request that Respondent perform tasks in addition to those detailed in the SOW or Work Plan, as provided in this Consent order. EPA reserves the right to undertake removal actions and/or remedial actions at any time. EPA reserves the right to seek reimbursement from Respondent for such costs incurred by the United States at the Site.

XVIII. REIMBURSEMENT OF OVERSIGHT COSTS

No more often than annually, EPA shall submit to Respondent documentation for all response and oversight costs incurred by the U.S. Government with respect to this Consent Order. EPA's SCORES Reports or similar reports from the EPA accounting system

shall serve as sufficient documentation for payment demands. Respondent shall, within 30 calendar days of receipt of each accounting, remit a check for the amount of those costs made payable to the Hazardous Substance Response Trust Fund. Checks should specifically reference the identity of the Site (SSID # 09AG) and be addressed to:

U.S. Environmental Protection Agency
Region 9, Attn: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

A copy of the transmittal letter shall be sent simultaneously to the EPA Project Coordinator. EPA reserves the right to bring an action against Respondent pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of all response and oversight costs incurred by the United States related to this Consent Order and not reimbursed by Respondent as well as any other unreimbursed past and future costs incurred by the United States in connection with response activities conducted pursuant to CERCLA at this site.

XIX. OTHER CLAIMS

A. Except as provided in Section XX (Covenant Not to Sue) and Section XXI (Contribution Protection), this Consent Order does not release Respondent from any claim, cause of action or demand in law or equity.

B. In entering into this Consent Order, Respondent waives any right to seek reimbursement or present any claim under Sections 106, 111, or 112 of CERCLA, 42 U.S.C. §§ 9606, 9611, or

9612, for any work performed pursuant to this Consent Order and any modifications thereto.

C. Respondent shall bear its own attorneys fees and costs with respect to all matters associated with this Consent Order.

XX. COVENANT NOT TO SUE

A. Upon issuance of the written notice under Section XXVI of this Consent Order, EPA covenants not to sue Respondent for judicial imposition of damages or civil penalties for any failure to perform obligations agreed to in this Order except for continuing obligations required under this Order, as otherwise reserved herein with respect to the RI/FS Work, or for obligations or liability outside the scope of the RI/FS Work.

B. Upon payment of the costs incurred by EPA in overseeing Respondent's implementation of the requirements of this Consent Order, EPA covenants not to sue Respondent under section 107(a) of CERCLA for recovery of such oversight costs expended in connection with this Consent Order that are reimbursed under this Consent Order.

XXI. CONTRIBUTION PROTECTION

A. With regard to claims for contribution against Respondent for matters addressed in this Order, the Parties hereto agree that the Respondent is entitled to protection from contribution actions or claims to the extent provided by Sections 113(f)(3) and 122(h)(4) of CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9622(h)(4).

XXII. OTHER APPLICABLE LAWS

Respondent shall undertake all actions required by this Consent Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided in this Consent Order or as provided in CERCLA Section 121(e), 42 U.S.C. Section 9621(e) and 40 C.F.R. Section 300.415(i).

XXIII. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

Respondent agrees to indemnify and hold the United States Government, its agencies, departments, agents, contractors, and employees, harmless from any and all claims or causes of action arising from or on account of acts or omissions of Respondent, their officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Consent Order. EPA is not a party to any contract involving the Respondent at the Site.

XXIV. COMMUNITY RELATIONS/PUBLIC COMMENT

EPA will implement a Community Relations Program in accordance with Agency policies, guidance documents, and public comment policy. Respondent shall participate in the community relations activities when deemed appropriate by EPA.

XXV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

A. This Order is effective on the date signed by EPA.

B. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as relieving Respondent of its obligation to obtain such formal ap-

proval as may be required by this Consent Order. The SOW will be subject to public comment following the signing of the Order. EPA may make changes to the SOW based on the public comment.

C. Any deliverables, plans, technical memoranda, reports (other than progress reports), specifications, schedules and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, and attachments shall be considered a failure to achieve the requirements of this Consent Order and may subject the Respondent to the penalties set forth in Section XV.

XXVI. TERMINATION AND SATISFACTION

The provisions of the Consent Order shall be deemed satisfied upon Respondent' receipt of written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, that all of the terms of this Consent Order, including any additional tasks which EPA has determined to be necessary, have been completed.

XXVII. CERCLA AMENDMENTS

In the event that any of the applicable provisions of CERCLA are amended prior to termination of this Consent Order, the amended provisions of CERCLA shall be applicable to Respondent's obligations under this Consent Order to the extent that the intent of Congress is clear to apply such amendments retroactively to Administrative Orders issued prior to the effective date of the amendments.

IT IS SO AGREED AND ORDERED:

UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

By: _____ Date: _____

Nancy Lindsay
Branch Chief
Hazardous Waste Management Division
Region 9

Respondent

By: _____ Date: 9/26/95

Name BRUCE A. JORDAN
Title VICE PRESIDENT

IT IS SO AGREED AND ORDERED:

UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

By: Nancy Lindsay Date: 9/28/95

Nancy Lindsay
Branch Chief
Hazardous Waste Management Division
Region 9

Respondent

By: _____ Date: _____

Name
Title

SYMBOL	RC-3-3	RC-3-1	ORC	[illegible]-1		
SURNAME	Ringone	ORC	[illegible]	PO		
DATE	9/27/95	KEENEN	9/28/95	9-28-95		

U.S. EPA CONCURRENCES OFFICIAL FILE COPY

Attachment A

DEL MONTE STATEMENT OF WORK
FOR
REMEDIAL INVESTIGATION/FEASIBILITY STUDY OR EE/CA

A. INTRODUCTION AND PURPOSE

The purpose of this Remedial Investigation/Feasibility Study (RI/FS) or Engineering Evaluation/Cost Analysis (EE/CA) is to investigate the nature and extent of soil and groundwater contamination, and conduct long-term monitoring of the groundwater at the Del Monte Corporation (Oahu Plantation) Superfund site. In addition the Respondent shall develop and evaluate potential remedial alternatives. The RI, FS and EE/CA process are interactive and may be conducted concurrently so that the data collected in the RI influences the development of remedial alternatives in the FS or EE/CA.

The Respondent will conduct this RI/FS and EE/CA (except for the baseline risk assessment, ecological risk assessment and community relations components) and will produce a draft Site Characterization Report, FS and EE/CA report that are in accordance with this Statement of Work, the Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA (U.S. EPA, Office of Emergency and Remedial Response, October 1988), and any other guidance that EPA uses in conducting RI/FS, Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA (U.S. EPA, Office of Solid Waste and Emergency Response, August 1993), as well as any additional requirements in the administrative order. The Respondent will furnish all necessary personnel, materials, and services needed, or incidental to, performing the RI/FS or EE/CA, except as otherwise specified in the administrative order.

At the completion of the RI/FS or EE/CA, EPA will be responsible for the selection of a site remedy and will document this selection in a Record of Decision (ROD) or an Action Memorandum (AM). The remedial action alternative selected by EPA will meet the cleanup standards specified in CERCLA 121. That is, the selected remedial action alternative will be protective of human health and the environment, will be in compliance with, or include a waiver of, applicable or relevant and appropriate requirements of other laws, will be cost-effective, will utilize permanent solutions and alternative treatment technologies, to the extent practicable, and will address the statutory preference for treatment as a principal element. The final RI/FS or EE/CA reports, as adopted by EPA, and EPA's baseline risk assessment will, with the administrative record, form the basis for the selection of the site's remedy and will provide the information

necessary to support the development of the ROD or AM.

As specified in CERCLA Section 104 (a) (1), as amended by SARA, EPA will provide oversight of the Respondent's activities throughout the RI/FS or EE/CA process. The Respondent will support and cooperate in EPA's initiation and conduct of activities related to the implementation of oversight activities.

B. SITE BACKGROUND

The Del Monte Corporation (Oahu Plantation) Superfund site is located on 6000 acres on the western side of Central Oahu Plain. The plantation is a pineapple agricultural operation and is currently operated by Del Monte Fresh Produce (Hawaii) Inc. (DMFP). The small village of Kunia is located on the plantation and serves as the residence for DMFP full-time employees and their dependents. Ethylene dibromide (EDB) and 1,2 dibromo-3-chloropropane (DBCP) were pre-plant soil fumigants previously registered for control of parasitic nematodes in pineapples. As a result of an accidental spill in 1977 and incidental releases in previous soil fumigant storage and mixing areas, EDB and DBCP have contaminated the perched and the basal aquifer in the vicinity of the Kunia Well (once a drinking water well). EDB, DD Soil Fumigant, DBCP and other fumigants have also been legally applied to agricultural areas at the site under FIFRA since the 1940s for control of nematodes in pineapples.

On April 7, 1977, approximately 495 gallons of EDB which reportedly contained .25 percent DBCP was accidently spilled during transfer operations from a bulk transport container believed to be owned by Dow Chemical Company into a previous fixed above ground storage facility. The spill occurred on bare ground within 60 feet of the Kunia Well (State No. 2703-01).

The State of Hawaii Department of Health collected water samples and analyzed for EDB on April 15, 1977. Groundwater analytical results showed no EDB contamination.

Water samples were again collected on April 14, 1980 from the Kunia Well. The well exhibited concentrations of 11 ppb of DBCP and 92 ppb of EDB. The well was resampled on April 24, 1980 and the results showed 300 ppb of EDB and .5 ppb of DBCP. On April 25, 1980, the Kunia Well was disconnected from the potable water supply serving Kunia Village.

C. SUMMARY OF PREVIOUS WORK

Between 1980 and 1983 soil boring and water sampling were conducted by Del Monte Corporation to characterize the extent of the contamination. During this time a previously unreported perched groundwater body was discovered approximately 20 - 30 feet below ground surface. The basal groundwater is about 830

feet below ground surface and there is an unsaturated zone of about 675 feet between the perched aquifer and the basal groundwater. A program to extract perched water in the vicinity of the Kunia Well and the former Fumigant Storage Area was initiated by Del Monte in early 1981. Three wells were drilled and pumped on a routine basis as recharge allowed.

In 1981 and 1983, Del Monte removed approximately 18,000 tons of soil from the spill and storage areas. The highest concentrations of EDB and DBCP were detected at the 30 to 40 foot level. Soil excavations reached up to 60 feet deep in an area of approximately 15,000 square feet.

The Kunia Well has been pumped twice a week for four to eight hours a day since 1980 in an attempt to contain and/or remove contaminants in the groundwater near the vicinity of the well. DMFP stopped pumping the Kunia Well after receiving a request from EPA to discontinue this activity on September 9, 1994.

TASK 1: SCOPING

Scoping is the initial planning process of the RI/FS or EE/CA and has been initiated by EPA, which has developed the site specific objectives of the RI/FS or EE/CA which are listed below. The Respondent will document the specific project scope in a Work Plan. The details of the project scope will be negotiated during the development of the work plan. The Respondent will consider the information contained in the Data Summary Report and the Site Conceptual Model Report when developing the Work Plan. Historical analytical data collected by the State of Hawaii Department of Health, researchers at the University of Hawaii, and by Del Monte may also be utilized by the Respondent when developing the Work Plan. Because the work required to perform a RI/FS or EE/CA is not fully known at the outset, and is phased in accordance with a site's complexity and the amount of available information, it may be necessary to modify the Work Plan during the RI/FS or EE/CA to satisfy the objectives of the study.

a. Site Objectives

The objectives for the Del Monte Corporation (Oahu Plantation) Superfund site have been determined by EPA, based on existing information, to be the following:

1) Conduct necessary field work to support the completion of an FS for groundwater and an EE/CA for soils as appropriate.

2) Conduct field sampling necessary to estimate the areal extent and depth of soil contamination in the former storage/spill areas. Estimate the total volumes of contaminated soils. Characterize subsurface geology (e.g. depth to perched and basal

aquifer) throughout the area of contamination.

3) Estimate the areal extent and depth of soil contamination in all drum areas, disposal areas and previously used pesticide storage and mixing areas.

4) Estimate extent of groundwater contamination, and the hydraulic and geologic properties of the perched aquifer.

5) Estimate the extent of groundwater contamination, hydraulic and geologic properties in the deep (basal) aquifer. The investigation of deep (basal) aquifer contamination may be conducted, if approved by EPA, in a series of phased steps in order to minimize the number of deep wells installed. This phased approach to this estimation will be negotiated with EPA.

6) Conduct an EE/CA for soil contamination and a FS for groundwater contamination.

7) Remove, contain, and/or treat soils to a cleanup level which will allow for current and future uses and ensure that contaminants do not migrate off-site through groundwater, surface water, or the air, unless no-action or other action is determined to be the preferred alternative.

8) Remove, contain, and/or treat perched and deep groundwater to a cleanup level which will allow for current and future uses and ensure that contaminants do not migrate off-site, unless no-action or other action is determined to be the preferred alternative.

9) Conduct long-term groundwater monitoring of the perched and deep aquifers.

b. Management Strategy

EPA and the Respondent will concurrently complete the RI/FS for Groundwater and EE/CA for soils. The Respondent will perform most of the sampling activities and report preparation. EPA will perform the human health and ecological risk assessments, as well as community relations activities. The human health and ecological risk assessments will define clean-up goals that are protective of human health and the environment and meet the requirements of CERCLA. A goal of the RI/FS or EE/CA will be to limit repetition of previous work performed at the site to the greatest extent possible without compromising the integrity of the RI/FS or EE/CA process. Given the amount of information already available, it is anticipated that the final RI/FS or EE/CA can be completed within eighteen months.

When scoping the specific aspects of the project, the Respondent shall meet with EPA to discuss all project planning decisions and

special concerns associated with the site. The following activities shall be performed by the Respondent as a function of the project planning process.

c. Project Planning

Project planning activities include those tasks described below as well as identifying data needs, developing a Work Plan, designing a data collection program, incorporating appropriate development of data quality objectives and identifying health and safety protocols. The Respondent will meet with EPA regarding the following activities before the drafting of the scoping deliverables below.

Subtask 1 c.1: Refine and document preliminary remedial action objectives and alternatives

Based on existing site information contained in the Data Summary Report and the Site Conceptual Model and any other information, the Respondent will review and, if necessary, refine the remedial action objectives that have been identified by EPA for each actually or potentially contaminated medium. The revised remedial action objectives will be documented in a technical memorandum and subject to EPA approval. The Respondent will then identify a preliminary range of broadly defined potential remedial action alternatives and associated technologies. The range of potential alternatives should encompass, where appropriate, alternatives in which treatment significantly reduces the toxicity, mobility, or volume of the waste; alternatives that involve containment with little or no treatment; and a no-action alternative.

d. Scoping Deliverables

At the conclusion of the project planning phase, the Respondent will submit a Work Plan which covers the RI/FS or EE/CA, a Sampling and Analysis Plan (SAP), including a Quality Assurance Project Plan (QAPP) and a site Health and Safety Plan. The Work Plan which covers the RI/FS or EE/CA and the SAP must be reviewed and approved by EPA prior to the initiation of field activities.

Subtask 1 d.1: Site Activity Work Plan

The soil contamination will be addressed through the use of the EE/CA process. The groundwater contamination will be addressed through the use of a streamlined RI/FS process.

A Work Plan documenting the decisions and evaluations completed during the scoping process will be submitted to EPA for review and approval. The Work Plan will be developed in conjunction with the Sampling and Analysis Plan, which includes a QAPP and the site Health and Safety Plan, although each plan may be

delivered under separate cover. The Work Plan will include a comprehensive description of the work to be performed, including the methodologies and quality assurance activities to be utilized, as well as a corresponding schedule for completion. In addition, the Work Plan must include the rationale for performing the required activities.

Specifically, the Work Plan will present a statement of the problem(s) and potential problem(s) posed by the site and the objectives of the RI/FS or EE/CA, as applicable. Furthermore, the plan will include a site background summary setting forth the site description including the geographic location of the site, and to the extent possible, a description of the site's hydrology, geology, demographics, ecological, cultural and natural resource features; a synopsis of the site history and a description of previous responses that have been conducted at the site by local, state, federal, or private parties; and a summary of the existing data in terms of physical and chemical characteristics of the contaminants identified and their distribution among the environmental media at the site. The plan also will include a description of the site management strategy developed by EPA during scoping and a preliminary identification of remedial alternatives and data needs for evaluation of remedial alternatives. It will include a process for, and manner of identifying, Federal and state ARARs (chemical-specific, location-specific and action-specific). Where appropriate the Respondent should rely on the EPA Data Summary Report and the Site Conceptual Model Report. Historical analytical data collected by the State of Hawaii Department of Health, researchers at the University of Hawaii, and by Del Monte may also be utilized by the Respondents in determining the scope of work proposed in the Work Plan.

Finally, the major part of the Work Plan is a detailed description of the tasks to be performed, information needed for each task (e.g., for health and environmental risk evaluation), information to be produced during and at the conclusion of each task, and a description of the work products that will be submitted to EPA. Data quality objectives (DQOs) will be analyzed for each task and appropriate quality assurance and quality control (QA/QC) activities to be performed will be described. These Work Plan items include the deliverables set forth in the remainder of this statement of work; a schedule for each of the required activities which is consistent with the guidance; and a project management plan, including a data management plan (e.g., requirements for project management systems and software, minimum data requirements, data format and backup data presentations) to EPA at the conclusion of each major phase of the RI/FS or EE/CA.

Because of the unknown nature of the site and iterative nature of the RI/FS and EE/CA process, additional data requirements and

analysis may be identified throughout the process. The Respondents will submit a technical memorandum documenting the need for additional data, and identifying the Data Quality Objectives (DQOs) whenever such requirements are identified. In any event, the Respondent is responsible for fulfilling additional data and analysis needs identified by EPA consistent with the general scope and objectives of the RI/FS or EE/CA.

Subtask 1 d.2: Sampling and Analysis Plan

The Respondent will prepare a Sampling and Analysis Plan (SAP) to ensure that sample collection and analytical activities are conducted in accordance with technically acceptable protocols and that the data meet DQOs. The SAP provides a mechanism for planning field activities and consists of a Field Sampling Plan (FSP) and a Quality Assurance Project Plan (QAPP). The SAP should include activities to support either an FS or an EE/CA as appropriate.

The FSP will define in detail the sampling and data gathering methods that will be used on the project including field screening methods, if appropriate. It will include sampling objectives, data quality objectives (DQOs), sample location and frequency, sampling equipment and procedures, and sample handling and analysis. The QAPP will describe the project objectives and organization, functional activities, and quality assurance and quality control (QA/QC) protocols that will be used to achieve the identified DQOs. The DQOs will at a minimum reflect use of analytic and reporting methods for identifying contamination and remediating contamination consistent with the levels for remedial action objectives identified in the National Contingency Plan (March 8, 1990). In addition, the QAPP will address sampling procedures, sample custody, analytical procedures, field and laboratory QA/QC samples/procedures and data reduction, validation, reporting and personnel qualifications. Field personnel should be available for EPA QA/QC training and orientation where applicable.

The Respondent will demonstrate, in advance, to EPA's satisfaction, that each laboratory it may use is qualified to conduct the proposed work. This includes use of methods and analytical protocols for the chemicals of concern in the media of interest within detection and quantification limits consistent with both QA/QC procedures and DQOs approved in the SAP for the site by EPA. The laboratory must have, and follow, an approved QA program. EPA may require that the Respondent submit detailed information to demonstrate that the laboratory is qualified to conduct the work, including information on personnel qualification, equipment and material specifications. The Respondent will provide assurances that EPA shall have access to laboratory personnel, equipment and records for sample collection, transportation and analysis.

Subtask 1 d.3: Site Health and Safety Plan

A Health and Safety Plan will be prepared in conformance with the Respondents' health and safety program, and in compliance with OSHA regulations and protocols. The Health and Safety Plan will include the 11 elements described in the RI/FS guidance, such as a health and safety risk analysis, a description of monitoring and personal protective equipment, medical monitoring, and site control. It should be noted that EPA does not "approve" the Respondents' Health and Safety Plan, but rather EPA reviews it to ensure that all necessary elements are included, and that the plan provides for the protection of human health and the environment.

TASK 2 - SITE CHARACTERIZATION

As part of the RI, the Respondent will perform the activities described in this task, including a Site Characterization Report.

During this phase of the study, the Work Plan, SAP, and health and safety plan will be implemented. Field data will be collected and analyzed to provide the information required to accomplish the objectives of the study. The Respondent will notify EPA at least three weeks in advance of the field work regarding the planned dates for field activities, including field layout of the sampling grid, excavation, installation of wells, initiation of sampling, installation and calibration of equipment, pump tests, and initiation of analysis and other field investigation activities. The Respondent will demonstrate that the laboratory and type of laboratory analyses that will be utilized during site characterization meets the specific QA/QC requirements and the DQOs of the site investigation as specified in the SAP. In view of unknown site conditions, activities may be iterative, and to satisfy the objectives of the study it may be necessary for the Respondent to supplement the work specified in the initial Work Plan. In addition to the deliverables below, the Respondent will provide weekly field reports during field activities, a monthly progress report, and participate in meetings with EPA at major points in the study.

a. Field Investigation

The field investigation includes the gathering of data to define site physical characteristics, sources of contamination, and the nature and extent of contamination at the site. These activities will be performed by the Respondent in accordance with the Work Plan and SAP. At a minimum, this shall address the following:

Subtask 2.a.1: Implement and document field support activities

The Respondent will initiate field support activities following approval of the Work Plan and SAP. Field support activities may

include scheduling, and procuring equipment, office space, laboratory services, and/or contractors. The Respondent will notify EPA at least three weeks prior to initiating field support activities so that EPA may adequately schedule oversight tasks. The Respondent will also notify EPA in writing upon completion of field support activities.

Subtask 2.a.2: Investigate and Define Site Physical Characteristics

The Respondent will collect data on the physical characteristics of the site and its surrounding areas including the geology, hydrology, and specific physical characteristics identified in the Work Plan. This information will be ascertained through a combination of physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and receptor populations. In defining the site's physical characteristics, the Respondent will also obtain sufficient engineering data (such as pumping characteristics) for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.

Subtask 2.a.3: Define Sources of Contamination

The Respondent will locate each source of contamination. For each location, the areal extent and depth of contamination will be determined by sampling at incremental depths at appropriate locations. The physical characteristics and chemical constituents, and their concentrations, will be determined for all known and discovered sources of contamination. The Respondent shall conduct sufficient sampling to define the boundaries of the contaminant sources to the level established in the QA/QC plan and DQOs. Defining the source of contamination will include analyzing the potential for contaminant release (e.g. long-term leaching from soil), contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess treatment technologies.

Subtask 2.a.4: Describe the Nature and Extent of Contamination

The Respondent will gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, the Respondent will utilize the information on site physical characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. The Respondent will then implement an iterative monitoring program and any study program identified in the Work Plan or SAP such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the

migration of contaminants through the various media at the site can be determined. In addition, the Respondent will gather data for calculation of contaminant fate and transport. This process shall continue until the area and depth of contamination are characterized in accordance with QA/QC criteria established in the QA/QC plan and DQOs. Information on the nature and extent of contamination will be utilized to determine the level of risk presented by the site and will help to determine aspects of the appropriate remedial action alternatives to be evaluated.

b. Data Analyses

Subtask 2.b.1: Evaluate site characteristics

The Respondent will analyze and evaluate the data to describe: (1) site physical characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination, and (4) contaminant fate and transport. Results of the site physical characteristics, source characteristics, and extent of contamination analyses are utilized in the analysis of contaminant fate and transport. The evaluation will include the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to EPA in a technical memorandum for approval prior to their use. All data and programming shall be made available to EPA together with a sensitivity analysis. No proprietary programs shall be used. Also, this evaluation shall provide any information relevant to site characteristics necessary for evaluation of the need for remedial action in the risk assessment and for the development and evaluation of remedial alternatives. Analyses of data collected for site characterization will meet the DQOs developed in the QA/QC plan stated in the SAP.

c. Data Management Procedures

The Respondent will consistently document the quality and validity of field and laboratory data compiled during the RI.

Subtask 2.c.1: Document field activities

Information gathered during site characterization will be consistently documented and adequately recorded by the Respondent in well maintained field logs and laboratory reports. The method(s) of documentation must be specified in the Work Plan and the SAP. Field logs must be utilized to document observations, measurements, and significant events that have occurred during field activities. Laboratory reports must document sample custody, analytical responsibility, analytical results, adherence to prescribed protocols, nonconformity events, corrective

measures, and/or data deficiencies.

Subtask 2.c.2: Maintain Sample Management and Tracking

The Respondent will maintain field reports, sample shipment records, analytical results, and QA/QC reports to ensure that only validated analytical data are reported and utilized in the development and evaluation of remedial alternatives. Analytical results developed under the Work Plan will not be included in any site characterization reports unless accompanied by or cross-referenced to a corresponding QA/QC report. In addition, the Respondent will establish a data security system to safeguard chain-of-custody forms and other project records to prevent loss, damage, or alteration of project documentation.

d. Site Characterization Deliverables

The Respondent will prepare the preliminary site characterization summary and the remedial investigation report.

Subtask 2.d.1: Draft Site Characterization Report

After completing field sampling and analysis, the Respondent will prepare a concise Site Characterization Report. This report will review the investigative activities that have taken place, and describe and display site data documenting the location and characteristics of surface and subsurface features and contamination at the sites including the affected medium, location, types, physical state, concentration of contaminants and estimated quantity of contaminated present. In addition, the location, dimensions, physical condition and varying concentrations of each contaminant throughout each source and the extent of contaminant migration through each of the affected media will be documented. The summary will include maps showing all sampling, boring and well locations, all data from current and past investigations, schematic subsurface geologic cross sections, and contaminant level contours and depths, as appropriate, for soils, sediments, groundwater, and air. The Site Characterization Report will provide EPA with a preliminary reference for developing the risk assessment, and evaluating the development and screening of remedial alternatives and the refinement and identification of ARARs.

After reviewing the Draft Site Characterization Report, in cooperation with the Respondent, EPA will determine whether additional investigative activities are necessary to complete the characterization of soil and groundwater at the Site. If EPA determines that additional investigation is needed, the Respondent will prepare an Amendment to the Work Plan to perform the additional work.

Subtask 2.d.2: Final Site Characterization Report

The Respondent will prepare and submit a final report to EPA for review and approval. This report shall summarize results of field activities to characterize the site, sources of contamination, the fate and transport of contaminants.

TASK 3 - DEVELOPING AN EE/CA FOR SOILS CONTAMINATION

The development and screening of remedial alternatives is performed to develop an appropriate range of waste management options that will be evaluated. This range of alternatives should include as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are ranged; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. The following activities will be performed by the Respondent as a function of the development and screening of remedial alternatives.

a. Development and Screening of Remedial Alternatives

The Respondent will begin to develop and evaluate a range of appropriate waste management options that at a minimum ensure protection of human health and the environment, concurrent with the RI site characterization task.

Subtask 3.a.1: Refine and Document Remedial Action Objectives

The Respondent will review and if necessary propose refinement to the site-specific remedial action objectives that were established by EPA prior to negotiations between EPA and the Respondent. The revised remedial action objectives will be documented in the EE/CA. These objectives will specify the contaminants and media of interest, exposure pathways and receptors, and an acceptable contaminant level or range of levels (at particular locations for each exposure route).

Subtask 3.a.2: Develop General Response Actions

The Respondent will develop general response actions for the area defining containment, treatment, excavation, or other actions, singly or in combination, to satisfy the remedial action objectives.

Subtask 3.a.3: Identify Areas or Volumes of Media

The Respondent will identify areas or volumes of media to which general response actions may apply, taking into account

requirements for protectiveness as identified in the remedial action objectives. The chemical and physical characterization of the site will also be taken into account.

Subtask 3.a.4: Identify, Screen, and Document Remedial Technologies

The Respondent will identify and evaluate technologies applicable to each general response action to eliminate those that cannot be implemented at the site. General response actions will be refined to specify remedial technology types. Technology process options for each of the technology types will be identified either concurrent with the identification of technology types, or following the screening of the considered technology types. Process options will be evaluated on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative process for each technology type. The technology types and process options will be summarized for inclusion in a technical memorandum. The reasons for eliminating alternatives must be specified.

Subtask 3.a.5: Assemble and Document Alternatives

The Respondent will assemble selected representative technologies into alternatives for each affected area or operable unit. Together, all of the alternatives will represent a range of treatment and containment combinations that will address either the site or the operable unit as a whole. A summary of the assembled alternatives and their related action-specific ARARs will be prepared by the Respondent for inclusion in a technical memorandum. The reasons for eliminating alternatives during the preliminary screening process must be specified.

Subtask 3.a.6: Refine Alternatives

The Respondent will refine the remedial alternatives to identify contaminant volume addressed by the proposed process and sizing of critical unit operations as necessary. Sufficient information will be collected for an adequate comparison of alternatives. Remedial action objectives for each area will also be refined as necessary to incorporate any new risk assessment information being generated from the remedial investigation. Additionally, action-specific ARARs will be updated as the remedial alternatives are refined.

Subtask 3.a.7: Deliverables

The Respondent will submit a draft and final EE/CA for EPA review and approval. This document contains data necessary to support the selection of a response alternative.

TASK 4. DETAILED ANALYSIS OF ALTERNATIVES FOR SOILS CONTAMINATION

A detailed analysis will be conducted by the Respondent to provide EPA with the information needed to allow for the selection of a site remedy for the soils contamination. This analysis is the final task to be performed by the Respondents during the FS.

The Respondent will conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of three evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

Subtask 4.1: Apply Three Criteria and Document Analysis

The Respondent will apply three evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with, or include a waiver of, ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) effectiveness; (2) implementability; and (3) cost. For each alternative, the Respondents should provide: (1) a description of the alternative that outlines the waste management strategy involved and identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment.

Subtask 4.2: Compare Alternatives Against Each Other and Document the Comparison of Alternatives

The Respondent will perform a comparative analysis among the remedial alternatives. That is, each alternative will be compared against the other using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative are reserved by EPA.

Subtask 4.3: Deliverables

The Respondent will submit a draft and final Detailed Analysis of Alternatives for EPA review and approval. This document will consist of an analysis of each option against a set of criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

TASK 5 - DEVELOPMENT OF AN FS FOR GROUNDWATER

The development and screening of remedial alternatives is performed to develop an appropriate range of waste management options that will be evaluated. This range of alternatives should include as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are ranged; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. The following activities will be performed by the Respondent as a function of the development and screening of remedial alternatives.

a. Development and Screening of Remedial Alternatives

The Respondent will begin to develop and evaluate a range of appropriate waste management options that at a minimum ensure protection of human health and the environment, concurrent with the RI site characterization task.

Subtask 5.a.1: Refine and Document Remedial Action Objectives

The Respondent will review and if necessary propose refinement to the site-specific remedial action objectives that were established by EPA prior to negotiations between EPA and the Respondents. The revised remedial action objectives will be documented in the Feasibility Study. These objectives will specify the contaminants and media of interest, exposure pathways and receptors, and an acceptable contaminant level or range of levels (at particular locations for each exposure route).

Subtask 5.a.2: Develop General Response Actions

The Respondent will develop general response actions for the area of interest, in the groundwater defining containment, treatment, pumping, or other actions, singly or in combination, to satisfy the remedial action objectives.

Subtask 5.a.3: Identify Areas or Volumes of Media

The Respondent will identify areas or volumes of media to which general response actions may apply, taking into account requirements for protectiveness as identified in the remedial action objectives. The chemical and physical characterization of the site will also be taken into account.

Subtask 5.a.4: Identify, Screen, and Document Remedial Technologies

The Respondent will identify and evaluate technologies applicable to each general response action to eliminate those that cannot be implemented at the site. General response actions will be

refined to specify remedial technology types. Technology process options for each of the technology types will be identified either concurrent with the identification of technology types, or following the screening of the considered technology types. Process options will be evaluated on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more representative process for each technology type. The technology types and process options will be summarized. The reasons for eliminating alternatives must be specified.

Subtask 5.a.5: Assemble and Document Alternatives

The Respondent will assemble selected representative technologies into alternatives for each affected area or operable unit. Together, all of the alternatives will represent a range of treatment and containment combinations that will address either the site or the operable unit as a whole. A summary of the assembled alternatives and their related action-specific ARARs will be prepared by the Respondent for inclusion in the Feasibility Study. The reasons for eliminating alternatives during the preliminary screening process must be specified.

Subtask 5.a.6: Refine Alternatives

The Respondent will refine the remedial alternatives to identify contaminant volume addressed by the proposed process and sizing of critical unit operations as necessary. Sufficient information will be collected for an adequate comparison of alternatives. Remedial action objectives for each area will also be refined as necessary to incorporate any new risk assessment information being generated from the remedial investigation. Additionally, action-specific ARARs will be updated as the remedial alternatives are refined.

Subtask 5.a.7: Conduct and Document Screening Evaluation of Each Alternative

The Respondent may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for detailed analysis. If necessary, the screening of alternatives will be conducted to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis.

As appropriate, the screening will preserve the range of treatment and containment alternatives that was initially developed. The range of remaining alternatives will include options that use treatment technologies and permanent solutions to the maximum extent practicable.

b. Alternatives Development and Screening Deliverables

The Respondent will submit a draft and final FS for EPA review and approval. This document provides a basis for remedy selection by EPA and documents the development and analysis of remedial alternatives.

TASK 6: DETAILED ANALYSIS OF ALTERNATIVES

The Respondent will conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of nine evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

Subtask 6.1: Apply nine criteria and document analysis

The Respondents will apply nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with, or include a waiver of, ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance. (note: criteria 8 and 9 are considered after the RI/FS report has been released to the general public.) For each alternative, the Respondent should provide: (1) a description of the alternative that outlines the waste management strategy involved and identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment. The Respondent do not have direct input on criteria (8) state (or support agency) acceptance and (9) community acceptance; these will be addressed by EPA.

Subtask 6.2: Compare Alternatives Against Each Other and Document the Comparison of Alternatives

The Respondent will perform a comparative analysis between the remedial alternatives. That is, each alternative will be compared against the other using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative are reserved by EPA.

Subtask 6.3: Detailed Analysis Deliverables

The Respondents will submit a draft and final Detailed

Analysis of Alternatives for EPA review and approval. This document will consist of an analysis of each option against a set of criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

TASK 7: COMMUNITY RELATIONS

The development and implementation of community relations activities are the responsibility of EPA. The Respondents' community relations responsibilities, if any, will be specified in the community relations plan. All PRP-conducted community relations activities will be subject to oversight by EPA.

TASK 8: BASELINE RISK ASSESSMENT & ECOLOGICAL RISK ASSESSMENT

The baseline human health risk assessment and the ecological risk assessment will be performed by EPA concurrently with the RI. During the risk assessment EPA may identify additional data to be collected as part of the RI. The human health and ecological risk assessments will determine final site cleanup criteria for each contaminated medium which will be protective of human health and the environment and achieve ARARs.

Exhibit A

DELIVERABLES

Draft Remedial Action Objective Technical Memorandum	15 days after effective date of AOC
Final Remedial Action Objective Technical Memorandum	20 days after EPA comments
Draft Site Activity Work Plan	50 days after effective date of AOC
Final Site Activity Work Plan	20 days after EPA comments
Draft Field Sampling Plan	50 days after effective date of AOC
Final Field Sampling Plan	20 days after EPA comments
Draft Health & Safety Plan	50 days after effective date of AOC
Final Health & Safety Plan	20 days after EPA comments
Monthly Progress Reports	15th day of each month
Weekly Field Reports	COB each Monday
Draft Site Characterization Report	50 days after last day of data collection
Final Site Characterization Report	20 days after EPA comments
Draft EE/CA	45 days after EPA receipt of draft Site Characterization Report
Final EE/CA	20 days after EPA comments
Draft Detailed Analysis for Soil	20 days after Final EE/CA
Final Detailed Analysis for Soil	10 days after EPA comments
Draft FS	70 days after EPA receipt of draft Site Characterization Report
Final FS	20 days after EPA comments

Draft Detailed Analysis for GW	20 days after EPA comments on on draft FS
Final Detailed Analysis	20 days after EPA comments on draft Detailed Analysis
Draft Quarterly GW Monitoring Report	20 days after receipt of QA data
Final Quarterly GW Monitoring Report	10 days after receipt of QA data

APPENDIX B

I. Concurrence

The State hereby concurs in the Consent Order and agrees that to the extent Respondent complies with the Consent Order, the State will not pursue Respondent under Chapter 128-D H.R.S. or any other law to perform an RI/FS or like investigation that would duplicate the activities performed under the Consent Order.

II. Releases of Petroleum Pursuant to 128-D H.R.S.

a. The purposes of this Appendix are to coordinate site investigations and response actions for releases of petroleum with activities conducted under the Consent Order.

b. Unless EPA determines that the investigation and response actions for releases of petroleum should be included in the work performed pursuant to the Consent Order, such work shall remain outside the scope of the Consent Order and shall be governed by this Appendix B.

c. The Respondent and State shall use their best efforts to reach agreement to address releases of petroleum that are not within the scope of the Consent Order.

III. Reservation of Rights

In accordance with H.R.S. Section 128-D-22, the State reserves the right to issue an order to Respondent for releases not covered by the Consent Order where:

(1) The release creates an imminent and substantial harm to the public health or welfare; and

(2) The federal law has not provided a remedy consistent with the State contingency plan.

Any such order issued by the State shall not conflict with this Consent Order or the provisions of federal law. The State expressly reserves all rights pursuant to Section 128 D-22 H.R.S. to bring appropriate actions pursuant to common law or other statutory provisions where necessary to protect the public health and welfare, safety, or the environment.

IV. Reimbursement of Response and Oversight Costs

State will submit to Respondent documentation for all response and oversight costs, including indirect costs, incurred by the State associated with the Site prior to the effective date of the Consent Order. The State within 30 calendar days of the effective date of the Appendix B will provide Respondent documentation for all costs prior to the effective date of the Consent Agreement and Appendix B. With respect to response costs and oversight costs incurred by the State prior to the effective date of the Consent Order, Respondent agrees to pay the State response costs and oversight costs actually incurred up to a maximum of $15,000 plus a maximum of $3,000 travel and related costs incurred by the State Office of Attorney General. In addition, no more often than twice annually, the State shall submit to Respondent documentation of all response and oversight costs incurred by the State with respect to the Consent Order and this Appendix B. Respondent shall reimburse the State for all future response costs and oversight costs incurred by the State with respect to this Consent Order in an amount not to exceed $30,000 per year, which sum shall include all travel and related costs, from the effective date of this Consent Order. Respondent shall within 30 calendar days of receipt of the accounting, remit checks for the amount of the costs made payable to State of Hawaii, Department of Health and the Hawaii Department of the Attorney General. Checks should specifically reference the identity of the Site and be addressed to:

Hawaii Department of Health
919 Ala Moana Blvd., Room 206
Honolulu, Hawaii 96814

and

Hawaii Department of Attorney General
465 S. King Street, Room 200
Honolulu, Hawaii 96814

In the event Respondent fails to pay amounts due pursuant to this subparagraph, the State reserves the right to bring an action pursuant to H.R.S. 128-D, common law or other statutory law, for recovery of all response and oversight costs incurred by the State related to the Consent Order and this appendix B which have not been reimbursed by Respondent.

V. Covenant Not To Sue

(a) Upon completion of the RI/FS by Respondent, in accordance with the Consent Order, the State covenants not to issue Administrative Orders or to bring a suit against Respondent regarding performance of an RI/FS for the Site regarding any release of a hazardous substance or pollutant addressed in the RI/FS.

(b) Upon payment by Respondent of response costs and oversight costs incurred by the State in overseeing Respondent's implementation of the Consent Order, the State covenants not to sue Respondent under CERCLA or Chapter 128-D H.R.S. for any response costs or oversight costs incurred by the State regarding the Site prior to the date of Respondent's payment of such costs.

HAWAII DEPARTMENT OF HEALTH

Date: October 24, 1995

Lawrence Miike
Director of Health

HAWAII DEPARTMENT
OF ATTORNEY GENERAL

Date: October 19, 1995

Margery S. Bronster
Attorney General of Hawai'i

DEL MONTE FRESH PRODUCE
(HAWAII) INC.

Date: October ___, 1995

Bruce Jordan
Vice President and General Counsel